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PROJECT NO. 52373

REVIEW OF WHOLESALE ELECTRIC MARKET DESIGN	§ §	**PUBLIC UTILITY COMMISSION OF TEXAS**

SHELL ENERGY NORTH AMERICA (US) LP's RESPONSE TO PUBLIC NOTICE OF REQUEST FOR COMMENTS

Pursuant to Public Utility Commission of Texas ("Commission") procedural rules, Shell Energy North America (US) LP ("Shell Energy"), files this response to the public notice of request for comments filed by Commission Staff on October 25, 2021 in Project No 52373 ("October 25 Notice"), related to the *Review of Wholesale Electric Market Design*. The Order indicates that interested parties should file comments by November 1, 2021, therefore this filing is timely. Shell Energy appreciates the opportunity to participate in these discussions and will make itself available to the Commission as requested.

INTRODUCTION

Shell Energy, a wholly owned subsidiary of Royal Dutch Shell PLC, trades and markets natural gas, wholesale and retail power, and environmental and risk management products. Shell Energy has been actively trading in the US electricity market since 1995, as a retail electric provider, as a leading supplier to independent energy retailers, cooperatives, municipalities, commercial and industrial ("C&I") loads, and as a leading hedge provider for generation construction. In Texas, Shell Energy sells nearly 240 billion kWh of power each year. Royal Dutch Shell PLC's long-term objective is to expand its position in the US power sector and build a modern, integrated power business to deliver more and cleaner energy and is investing in wholesale and retail sides of power generation and consumption. Shell Energy has been an active ERCOT market participant, both in its own right and through its wholly owned subsidiary, MP2 Energy, and has participated extensively in ERCOT committees and groups to help strengthen market rules and market competitiveness. With the history and the experience of our extensive involvement, Shell Energy offers these recommendations in connection with the Commission's contemplated changes to the Texas wholesale markets design.

DISCUSSION

Shell Energy offers the following comments in response to the Commission's request for feedback on wholesale energy market reform:

A. Commitment to market design principles

Texas electricity markets must be designed to ensure reliable electric service to Texans in a cost-effective manner. This is done most effectively through the creation and operation of electricity markets that are transparent, technology neutral, and competitive. Market-based incentives should be aligned with reliability objectives through the creation of clearly defined market products and services that directly address known reliability risks. Markets should be designed to allow participants to procure these services through a competitive process, such that prices reflect the value of services provided. Accordingly, the Commission should continue working to ensure long term viability of deregulated retail and wholesale energy-only markets while preserving the flexibility, liquidity, and hedging capabilities that are offered in today's Energy and Ancillary Service markets. The Commission should remain committed to the core objectives of electricity market deregulation by adopting market designs that place investment risk on investors so that investors can innovate and provide the desired services at the least cost to consumers.

B. Market design areas for improvements

The reliability challenges presented by Winter Storm Uri identified several areas for improvement in the design and operations of ERCOT markets. The Commission has already made strides in several areas to ensure operational reliability and financial viability of the market if an extreme weather event happens in the future. Improvements have been made in industry requirements and standards for communications plans, identification and management of critical load, load shed management, weatherization, and other crucial areas. The Commission's plan to promote increased active participation of Demand Response Resources, Distributed Generation, and behind-the-meter generation and its direction to ERCOT to maintain more operating reserves, all aid in reducing reliability risks during shortage events. Reduction in the high system-wide offer cap ("HCAP"), prohibiting the offering of index products to residential and small commercial customers, and implementation of an emergency pricing mechanism will reduce financial risks experienced by end use customers and market participants during shortage events. Improvements in weatherization and the Commission's plan to develop a winter weather product to ensure fuel availability will address concerns related to availability of thermal resources during winter emergency events. Additionally, the Commission's contemplated changes to the Operating

Reserve Demand Curve ("ORDC"), modifying ERCOT Contingency Reserve Service ("ECRS") to cover ramping needs, increasing Non-Spin Reserve Service ("NSRS") to maintain more operating reserves and proposed new Ancillary Services for inertia, frequency control, voltage support, locational reserves, among other things create incentives for investment in dispatchable resources.

C. Why a Load Serving Entity obligation is not needed to address the reliability objective

The Commission is considering a Load Serving Entity ("LSE") obligation to: (1) ensure resource adequacy to meet load under extreme scenarios and (2) firm up the renewable fleet. However, a LSE obligation is unnecessary and will force loads to pay for capacity when it is not needed.

Ensuring resource adequacy to meet load under extreme scenarios: The LSE obligation requires loads to procure enough capacity bilaterally to meet certain reliability objectives by paying for capacity through retail rates. Numerous studies and inquiries have shown that the reliability issues related to Winter Storm Uri did not result from a capacity shortage, nor was the weather event considered a 1-in-10-year loss of load expectation event. Hence, the introduction of capacity procurement requirements through a LSE obligation will not meaningfully address the reliability challenges posed by extreme weather events such as Winter Storm Uri. It is well established that the Winter Storm Uri reliability events were most closely attributable to a lack of winter readiness, lack of granularity of load feeders that can be shed, lack of visibility into critical loads and fuel supply shortages. These issues cannot be fixed by a capacity procurement requirement or centralized capacity construct, and instead can only be addressed through improved planning, establishing standards for communications plans, identification and management of critical load, load shed management, weatherization and fuel availability, all of which the Commission has addressed or has plans to address. Furthermore, the events of Winter Storm Uri caused significant reliability issues in the footprints of the Midcontinent Independent System Operator, Inc. ("MISO") and the Southwest Power Pool ("SPP"), despite those regions' centralized capacity markets and interconnection to neighboring grids.

A well-designed Energy and Ancillary Service market will be able to attract enough active or passive generation and demand resources to serve load reliably under the events which have Value of Lost Load ("VOLL") lower than the value it is designed to protect. When a certain VOLL is selected and subsequent market design adjustments are based in the Economically Optimal

Reserve Margin ("EORM") and Market Equilibrium Reserve Margin ("MERM") in accordance with that VOLL, the market is designed to manage events with VOLL greater than the set value by implementing plans to effectively communicate manage serving critical load and manage serving non-critical load in rotation to manage stable operation of the system. Winter Storm Uri was an event with VOLL multi-fold higher than the current VOLL of $9,000 and hence the direction the Commission has already taken (such as by establishing standards for communications plans, identification and management of critical load, load shed management, weatherization and fuel availability) are the right corrective measures to improve reliability under such extreme events.

Firming up the renewable fleet: A LSE obligation will procure much more capacity than the expected drop in MWs from renewables and will result in over procurement of capacity and socialization of unit contingent risk of non-firm resources to end use customers. The most efficient way to address reliability issues caused by renewable variability is to define services of the right type and in the right amount to address the specific identified reliability concern and create incentives for non-firm resources to firm up thereby reducing the reliability degradation and the need for the services. This firming incentive should be created by assigning the cost of this service based on cause causation principles i.e., inversely proportional to the non-firmness or variability of an individual resource. The specific variability of the resource can be determined, for instance, by taking the difference between the 5th percentile output & 95th percentile MW availability of the resource in the same month of the previous year during the same 4-hour Ancillary Services time blocks.

D. Concerns with LSE obligation

In considering whether a LSE obligation is beneficial to the ERCOT market, the question to ask is: does a LSE that has existing physical firm energy forward contracts to cover its load incur additional costs under the LSE obligation scheme? The answer is yes. These costs, from requiring LSEs to procure and make capacity available, provide no additional reliability benefits for LSEs that have already covered their energy obligation with physical energy forward contracts. This shifts the cost of firming from the generator to the LSE when the LSE should not be the one penalized for generation that has failed to firm its energy delivery.

Imposing a LSE capacity procurement obligation, which reflects the capacity needed to serve a LSE's load obligation using accredited capacity, is an indirect and inefficient capacity market construct that benefits LSEs that own generation at the expense of small retailers. This is discriminatory and undermines competition that underpins Texas' vibrant retail market. A LSE obligation additionally creates various market inefficiencies and issues as evidenced by the questions posed in the Commission memo.

For example, the capacity costs associated with these bilateral arrangements are generally private, such that the broader market has no means of knowing the prevailing bilateral pricing. A bulletin board reflecting offers does not create an actual obligation. Additionally, as described above, a LSE obligation is not the most competitive and cost-effective way to address the reliability concerns the Commission wants to resolve.

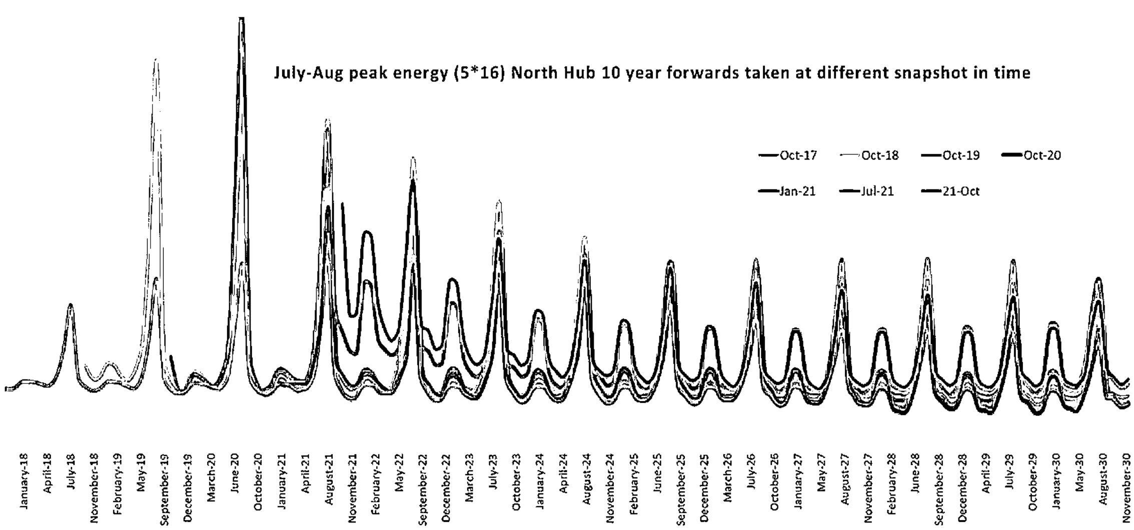
A LSE obligation will necessarily add administrative burdens to LSEs. Not only will compliance with LSEs' 3 years-forward obligation be subjective and difficult to verify (as it would be based on LSEs' estimated growth and confidential contracts), but the additional layer of regulation will result in LSEs choosing to shorten the duration of their customer contracts, and possibly even discourage expansion of their customer bases, for fear of compliance-related penalties. This increases the cost for all LSEs including higher risk premiums, making the competitive retail market less attractive for new retailers.

On average, LSEs currently hedge to their forecasted load using physical energy deliverables. It is only when limited unanticipated events, like Winter Storm Uri, occur creating a significant increase in load that was not forecasted and hence would not be hedged in advance. It is uneconomic to hedge over and above forecasted load in a cost-effective manner. A LSE-obligation with capacity accreditation based on average reliability value does nothing to ensure that LSEs will have procured the electricity needed to meet their customers' load under extreme conditions.

Furthermore, if the capacity accreditation is conservative, it will require LSEs to procure extra capacity that will only be called upon in rare, extreme situations, adding unnecessary capacity costs and ultimately driving down energy prices. This shifts the cost from a variable energy price to a fixed capacity price, adding significant cost and uncertainty for new or expanding business and reducing the attractiveness of Texas for business investment, price responsive demand and the ability/incentive for sophisticated customers to engage in real-time hedging to manage their energy bills. This deviates from the core objectives of the deregulated electricity market that places investment risk on investors so that investors can innovate and provide the desired services at the least cost to consumers.

E. Creating incentives for investment in dispatchable generation

In a well-deigned electricity market, the prices in real-time reflect the level of scarcity in the system which creates incentives for resources to provide supply and demand to reduce consumption in real-time. The forward markets provide the ability to hedge against variability in the real-time and would converge to the average expected value of the real-time market prices. Events in real-time and changes in the design of the real-time market which in turn changes real-time pricing will be reflected in the forward curves sending the price signal for or against investment. The below graph shows the 10-year peak north hub forward energy curve taken at different point in time. It shows how the forwards started reflecting a higher value for winter peak after Winter Storm Uri (orange curve taken in July 2021 and blue taken in October 2021) indicating the need for energy from peaking units during winter peak hours. The backwardation of the forward curve indicates estimated value of energy with generation mix in the interconnection queue. Changes in real-time energy and ancillary service market design to incentivize or disincentivize different types of capacity could change the revenue stream for different types of resources and result in changing the generation mix in the interconnection queue. This in turn would change the expected value of energy under the new generation mix and hence would change the forwards reflecting the need for investment per the incentives created in real-time Energy and Ancillary Service markets. For example, an incentive to firm up non-firm resources in real-time Energy and Ancillary Service markets would change the forwards in such a way to reflect the need for investment in dispatchable generation.



Dispatchable generation can be incentivized by adjusting the following revenue streams (1) Energy: Improve the forward curves for the energy by adjusting ORDC; (2) Ancillary Services: Create new services that value dispatchable attributes; (3) Reliability Services: Create new services that value dispatchable attributes; and, (4) Capacity: If needed, create a capacity revenue stream by implicitly procuring dispatchable capacity through capacity market or backstop procurement or explicitly through obligations for loads. The below table shows the forward sale profit or loss and how the viability (calculated at per MW level) of a Combustion Turbine with 10 heat rate could change under different scenarios. The peaker selling Energy during summer peak hours and Non-spin for the rest of the year, would have about 640 hours (5 days *16 hours for July and August) of Energy revenue and 8,120 hours of Non-Spin revenue. It will be a viable investment if Non-Spin forwards increase to $10/MW or if there are 20 hours of more than $2,000 in price or if the summer peak price increases to $120, or if a new reliability service is created with year-round average pricing greater than 5/MWh. Changing the ORDC prices, increasing the Non-Spin requirement, and creating new services all create additional revenue streams needed to attract new investments without a capacity market.

Scenarios for 10HR CT @$3 gas	Now: Selling E in Jul-Aug pk hr and Non-Spin rest of hours	Higher Non-Spin clearing	Additional 20hrs of E at $2k	Inc in Jul-Aug $E forwards by $60	New AS or Reliability Service clearing above $5
5*16 E price ($)	60	60	60	120	60
AS price ($)	4	10	4	4	4
5*16 hr*weeks (hrs)	640	640	640	640	640
Remaining hr/yr (hrs)	8120	8120	8120	8120	8120
E revenue ($)	19200	19200	19200	57600	19200
AS revenue ($)	32480	81200	32480	32480	32480
New AS revenue ($)	0	0	0	0	43800
Additional Scarcity ($)	0	0	40000	0	0
tot Revenue ($/MW-yr)	51680	100400	91680	90080	95480
CONE ($/MW-yr)	90000	90000	90000	90000	90000
Profit/loss ($/MW-yr)	-38320	10400	1680	80	5480

F. Specific responses to Commission inquiries in October 25 Notice

In addition to the discussion above, Shell Energy offers the following specific responses to some of the questions posed by the Commission in its October 25 Notice:

1. **The ORDC is currently a "blended curve" based on prior Commission action. Should the ORDC be separated into separate seasonal curves again? How would this change affect operational and financial outcomes?**

   Response: Shell Energy provides no response.

2. **What modifications could be made to existing ancillary services to better reflect seasonal variability?**

   Response: Shell Energy provides no response

3. **Should ERCOT develop a discrete fuel-specific reliability product for winter? If so, please describe the attributes of such a product, including procurement and verification processes.**

   Response: Yes. ERCOT should develop a new winter fuel assurance product similar to the 2 year ahead procured 2-year contract Black Start Service ("BSS"). This will provide fuel certain capacity, with qualifying resources having certified fuel supplies that would not be diminished during fuel interruptions of a defined period. The procurement could be based on a target maximum amount of money spent and contracts could be awarded based on minimization of cost to customers and maximization of the degree of resiliency the offer provides.

4. **Are there alternatives to a load serving entity (LSE) Obligation that could be used to impose a firming requirement on all generation resources in ERCOT?**

   Response: Yes, a winter fuel assurance product as described in response to question 3 above, the new weatherization rules, and ORDC pricing changes should create incentives and requirements that would ensure firmness of the thermal fleet. The Seasonal Dispatchable Reliability Service, as described in Shell Energy's September 30, 2021 comments in this project, and the Uncertainty Ancillary Service Product, as described in Independent Market Monitor's ("IMM") October 15, 2021 comments in this Project, could be designed to incentivize investment in dispatchable generation to address the reliability impact of non-firmness of non-dispatchable units. The incentive for non-dispatchable units to firm up could be created by assigning the cost of these services to non-dispatchable units inversely proportional to individual resource's variability.

5. **Are there alternatives to an LSE Obligation that could address the concerns raised about the stakeholder proposals submitted to the Commission?**

Response: Yes. Though the LSE obligation intends to address intermittent resource variability, there are alternative solutions that would better achieve this goal at lower costs to consumers. A targeted ancillary service in or near real-time would be a more efficient and cost effective way to address renewable variability as it would (1) enable real-time hedging, (2) provide needed reliability by procuring the right quantity and quality of MWs, (3) provide transparent and predictable long term investment signals for the needed type of capacity, and (4) not rely on administrative variables based on a static snapshot that artificially inflates the need and shifts the risk of that uncertainty to customers.

However, the desire is to deviate from the current Energy-only market construct and procure capacity to cover for load against legislative intent, then the Commission should adopt the IMM's forward shortage energy hedge proposal instead of implementing an LSE obligation. It is preferable to other stakeholders' suggestions, including the LSE obligation, because it achieves the same reliability objective paying for physical capacity using a market mechanism which is transparent, predictable and will have less impact on the Energy markets. This is particularly true if the accreditation is done based on average values. As a hedging product that covers the shortage pricing, Shell Energy proposes it can be implemented as (1) LSEs paying expected (ORDC + RDPA) + premium for X% of their forecasted (load – expected demand reduction) at the beginning of the season to get paid back (ORDC + RDPA) in real-time for the MW amount they bought (2) resources awarded this product getting paid expected (ORDC + RDPA) + premium at the beginning of the season and pays back (ORDC + RDPA) in real-time for the MW they are awarded (3) resources who are available in real-time get paid (ORDC + RDPA) as part of SPP for BP and (ORDC + RDPA) for HSL-BP based on current ORDC design. This then would result in gen that is unavailable in real-time paying back (ORDC + RDPA).

The product would have to be cleared based on a demand curve calculated by the missing money that needs to be earned during the season. It could be calculated as (CONE – average Energy and Ancillary Service revenue from last year) * weight for the season. As only accredited capacity can be awarded this product, if the accreditation is too conservative then this will also result in buying unnecessary extra reserves that will shift the revenue from energy market to this product. This product when procured to cover not so high % of load would provide (1) a more stable revenue stream for dispatchable gen (2) reduction in the exposure of customers to scarcity pricing to some extent depending on how much load is covered (3) creation of revenue stream to maintain enough capacity to cover some % of load (4) the ability for price responsive demand to still manage their Energy cost as done currently.

6. **How can an LSE Obligation be designed to protect against the abuse of market power in the wholesale and retail markets?**

Response: Shell Energy provides no response to this portion of Question 6.

6.a. **Will an LSE Obligation negatively impact customer choice for consumers in the competitive retail electric market in ERCOT? Can protective measures be put in place to avoid a negative impact on customer choice? If so, please specify what measures.**

Response: Yes. A LSE Obligation does, in fact, negatively impact customer choice for customers in the ERCOT competitive retail electric market. It does so by reducing retail competition by favoring generation retailers (or "gentailers") at the expense of small retailers. This obligation is discriminatory and would result in driving small retailers out of the market at the expense of competition. This issue could be only be effectively mitigated if the capacity procurement is done through a centralized capacity market.

6.b. **How can market power be effectively monitored in a market where owners of power generation also own REPs that serve a large portion of ERCOT's retail customers?**

Response: Shell Energy provides no response to this portion of Question

6.c. **What is the impact on self-supplying large industrial consumers who will have to comply with the LSE Obligation and will it impact their decision to site in Texas?**

Response: Yes. There will be a significant cost impact on self-supplying large industrial customers that will negatively impact their decision to site in Texas. It shifts the cost from a variable energy price to a fixed capacity price, adding significant cost and uncertainty for new or expanding business which reduces the attractiveness of Texas for business investment and reduces price responsive demand and the ability/incentive for sophisticated customers engage in real-time hedging to manage their energy bills. This deviates from the core objectives of the deregulated electricity market deregulation: to place investment risk on investors so that investors can innovate and provide the desired services at the least cost to consumers.

6.d. **What is the impact of an LSE Obligation on load-serving entities that do not offer retail choice, such as municipally owned utilities or electric cooperatives?**

Response: Shell Energy provides no response to this portion of Question 6.

6.e. **Can market power be monitored in the bilateral market if an LSE Obligation is implemented in ERCOT? Can protective measures be put in place to ensure that market power is effectively monitored in ERCOT with an LSE Obligation? If so, please specify what measures.**

Response: Market Power mitigation can only be done effectively if the capacity procurement is done through a centralized capacity market.

6.f. **Should the LSE Obligation include a "must offer" provision? If so, how should it be structured?**

Response: Shell Energy provides no response to this portion of Question 6.

7. **How should an LSE Obligation be accurately and fairly determined for each LSE? What is the appropriate segment of time for each obligation? (Months? Weeks? 24 hour operating day? 12 hour segments? Hourly?)**

Response: Shell Energy provides no response.

8. **Can the reliability needs of the system be effectively determined with an LSE Obligation? How should objective standards around the value of the reliability-providing assets be set on an on-going basis? (a.) Are there methods of accreditation that can be implemented less administrative burden or need for oversight, while still allowing for all resources to be properly accredited? (b.) How can winter weather standards be integrated into the accreditation system?**

Response: Shell Energy provides no response to any part of Question 8.

9. **How can the LSE Obligation be designed to ensure demand response resources can participate fully and at all points in time?**

Response: Shell Energy provides no response.

10. **How will an LSE Obligation incent investment in existing and new dispatchable generation?**

Response: Shell Energy provides no response.

11. **How will an LSE Obligation help ERCOT ensure operational reliability in the real-time market (e.g., during cold weather events or periods of time with higher than expected electricity demand and/or lower than expected generation output of all types)?**

Response: Shell Energy provides no response.

12. **What mechanism will ensure those receiving revenue streams for the reliability services perform adequately?**

Response: Shell Energy provides no response.

13. **What is the estimated market and consumer cost impact if an LSE obligation is implemented in ERCOT? Describe the methodology used to reach the dollar amount.**

Response: A continuous LSE obligation into the future without a trigger will drive revenue from hedgeable Energy & Ancillary Service markets into a fixed capacity product, adding significant cost to consumers. The added cost of the LSE Obligation for those LSEs that already have Firm Physical Energy Contracts will increase customer bills proportionately. Conversely, a targeted ancillary service procurement would improve reliability at a significantly lower cost.

14. **How long will the LSE Obligation plan take to implement?**

Response: Shell Energy provides no response.

15. **If the Commission adopts an LSE Obligation, what assurances are necessary to ensure transparency and promote stability within retail and wholesale electric markets?**

Response: Shell Energy provides no response.

16. **Are there relevant "lessons learned" from the implementation of an LSE Obligation in the SPP, CAL-ISO, MISO, and Australian markets that could be applied in ERCOT?**

Response: As evidenced from reliability issues in the footprints of the MISO and the SPP during Winter Storm Uri, a LSE obligation will not address reliability under extreme conditions even with their interconnection to neighboring grids. A LSE obligation has not been able to address renewable variability concerns in SPP, CAL-ISO, and MISO and they too are evaluating different products to address reliability concerns. These markets have significant Renewable Production Standards with no incentives to firm renewables which is not the case in Texas. Australia's Retailer Reliability Obligation is effective because (1) it is not based on a physical obligation but on financial contracts which makes it very liquid (2) it is triggered only when the market-based investments are not enough to meet the reliability objective (3) and the reliability objective is not conservative.

CONCLUSION

Shell Energy appreciates the opportunity to provide input on these important market design issues and looks forward to participating in future discussion on market design changes to support the Commission in developing competitive wholesale market solutions to achieve the level of grid reliability that Texans expect and deserve.

Dated November 1, 2021

Respectfully submitted,

*/s/ Resmi Surendran*______

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AUTHORIZED REPRESENTATIVE FOR SHELL ENERGY

SHELL ENERGY NORTH AMERICA (US) LP's RESPONSE TO PUBLIC NOTICE OF REQUEST FOR COMMENTS - EXECUTIVE SUMMARY

- The Texas retail and wholesale Energy and Ancillary Services ("AS") markets are all vastly interrelated, such that a change to one market construct can have a very significant effect on many other market constructs. The Commission should take a holistic approach to analyzing the wholesale market design and allow for thorough consideration of the market interactions and causal effects of a particular reform before taking measures to significantly deviate from the current Energy-only market construct.
- The ideal market is a competitive, transparent, and technology neutral, in real-time ("RT") Energy and AS markets. An influx of non-firm resources does not change the fundamental principles of electricity market design but only highlights the importance of demand participation, multi-interval unit commitment, appropriately valuing the services provided and most importantly getting the RT Energy and AS prices right as they drive forwards and investment signals. Any market reforms adopted to address the reliability objective should maximize reliability benefits in a cost-effective way while upholding the fundamental principles of electricity market design, the principles of deregulation and the benefits of Texas's vibrant retail and wholesale energy-only markets.
- Shell Energy strongly believes that incentives for investment in dispatchable generation and firming up of non-firm resources can be created by modifying the Energy and AS markets and/or creating new Services, without implementing a centralized capacity market or a bilateral capacity market (LSE obligation) or procuring rate-regulated generation as in capacity backstop proposals.
- The reliability challenges presented by extreme scenarios should be solved through the creation of improved communications plans, identification and management of critical load, load shed management, weatherization, fuel availability, maintaining more operating reserves, and improved participation of Demand Resources and distributed resources. A targeted AS in or near RT would be a more efficient and cost effective way to address renewable variability as it would (1) enable RT hedging, (2) provide needed reliability by procuring the right type and in the right amount of MWs, (3) provide transparent and predictable long term investment signals for the needed type of capacity, and (4) not rely

on administrative variables or static snapshots that artificially inflates the need and shifts the risk of that uncertainty to customers.

- A LSE obligation is a significant deviation from Legislative intent to not implement a capacity market and to achieve the reliability objectives through the Energy and AS markets. The proposed LSE Obligation negatively impacts the vibrant Texas retail and wholesale energy-only markets in the following ways:
  - It deviates from the core objectives of electricity market deregulation: placing investment risk on investors triggering innovate and cost reduction.
  - It requires capacity to be procured by LSEs without providing any additional reliability benefits for LSEs with long term physical energy forward hedges.
  - It creates an indirect and inefficient capacity market construct that benefits LSEs with generation owning affiliates at the expense of small retailers.
  - It adds unnecessary administrative subjective compliance burdens of creating incentives for LSEs to shorten the duration of their customer contracts.
  - A LSE obligation implemented with capacity accreditation based on average reliability value will not ensure that LSEs will have procured the energy needed to meet their customers' load under extreme conditions.
  - A LSE obligation designed to cover only extreme conditions would be implemented with conservative capacity accreditation and will result in procurement of extra, unnecessary capacity, that will only be called on under extreme situations, driving up capacity costs while driving down the energy prices. This shifts the cost from a variable energy price to a fixed capacity price, adding significant costs and uncertainty for new or expanding business reducing the attractiveness of Texas for business investment, reducing price responsive demand and the eliminating the ability/incentive for sophisticated customers to engage in RT hedging to manage their energy bills.
- If the desire is to deviate from the current Energy-only market construct and procure capacity to cover for load against legislative intend, then the Commission should adopt IMM's forward shortage energy hedge proposal instead of implementing an LSE obligation.